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Gregory J. Koerner Redwood Patent Law 1291 East Hillsdale Boulevard Suite 205 Foster City, CA 94404			EXAMINER JERABEK, KELLY L	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS

AND INTERFERENCES

Ex parte CLAY H. FISHER, STEVEN G. GOLDSTEIN,
NEAL J. MANOWITZ, and DAVID G. LONGENDYKE

Appeal 2010-010562
Application 09/781,917
Technology Center 2600

Before: MARC S. HOFF, CARLA M. KRIVAK, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-40, 43-50, and 52-58.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Appellants' claimed invention is directed to a system and method for accessing and utilizing ancillary data using an electronic camera device. (Spec. 1:14-16.)

Independent claim 1 is illustrative.

1. A system for manipulating image data, comprising:

a data source configured to store one or more ancillary data files, said data source being implemented as a computer in a distributed computer network of multiple remote intercommunicating computers;

an imaging device configured to capture said image data, said imaging device being physically remote from said computer; and

an ancillary data module for transferring said one or more ancillary data files in an ancillary data flow from said data source directly to said imaging device for manipulating said image data, said ancillary data module performing on-line management procedures during which a system user interactively and manually utilizes said imaging device to remotely view said one or more ancillary data files that are stored on said computer, to remotely manipulate said one or more ancillary data files that are stored on said computer, to

¹ Appellants are not appealing claims 41, 42, 51, and 59 (App. Br. 5). It should be noted that claims 12 and 32, although not included in the "Status of Claims," are included in Appellants' arguments and thus, are considered part of this Appeal (App. Br. 36; Ans. 40-41).

then remotely select said one or more ancillary data files that are stored on said computer, and to manually trigger a download of said one or more ancillary data files from said computer to said imaging device, said one or more ancillary data files being selected and downloaded through selection decisions that are able to be made in all instances only by said system user, said selection decisions being made in all instances prior to said download of said ancillary data files, said on-line management procedures occurring while an active bi-directional electronic communication path currently exists from said imaging device to said computer through said distributed computer network, said one or more ancillary data files including one or more image data files that said imaging device combines with said image data to create a new composite image that integrates both said image data and at least one of said ancillary data files into a single image.

REFERENCES and REJECTIONS

The Examiner rejected claims 1, 4-9, 11, 13-15, 17, 21, 24-29, 31, 33-35, 37, 47, 48, 50, and 52 under 35 U.S.C. § 102(b) as anticipated by Squilla (US 6,396,537 B1, May 28, 2002, filed Nov. 24, 1997).

The Examiner rejected claims 2 and 22 under 35 U.S.C. § 103(a) based upon the teachings of Squilla and Creamer (US 6,930,709 B1, Aug. 16, 2005, filed Dec. 3, 1998)

The Examiner rejected claims 3, 23, and 46 under 35 U.S.C. § 103(a) based upon the teachings of Squilla, Qian (US 6,950,130 B1, Sep. 27, 2005, filed Jan. 5, 1999), and Aihara (US 6,223,190 B1, Apr. 24, 2001, filed Apr. 13, 1998)

The Examiner rejected claims 10, 18-20, 30, and 38-40 under 35 U.S.C. § 103(a) based upon the teachings of Squilla and Anderson (US 6,177,957 B2, Jan. 23, 2001).

The Examiner rejected claims 12, 32, 49, and 53-55 under 35 U.S.C. § 103(a) based upon the teachings of Squilla and Aihara.

The Examiner rejected claims 16 and 36 under 35 U.S.C. § 103(a) based upon the teachings of Squilla and Sarbadhikari (US 5,477,264, Dec. 19, 1995).

The Examiner rejected claim 43 under 35 U.S.C. § 103(a) based upon the teachings of Squilla and Harada (US 6,195,511 B1).

The Examiner rejected claim 44 under 35 U.S.C. § 103(a) based upon the teachings of Squilla, Aihara, Qian, Berstis (US 6,721,001 B1, Apr. 13, 2004, filed Dec. 16, 1998), and Silverbrook (US 6,894,694 B1, May 17, 2005, filed Jul. 10, 1998).

The Examiner rejected claim 45 under 35 U.S.C. § 103(a) based upon the teachings of Squilla, Park (US 6,731,305 B1, May 4, 2004, effectively filed Jul. 17, 2000), Kondoh (US 6,968,058 B1, Nov. 22, 2005, filed Apr. 16, 1999), and Satoh (US 5,717,496, Feb. 10, 1998).

The Examiner rejected claim 56 under 35 U.S.C. § 103(a) based upon the teachings of Squilla, Aihara, and Tullis (US 6,535,243 B1, Mar. 18, 2003, filed Jan. 6, 1998).

The Examiner rejected claims 57 and 58 under 35 U.S.C. § 103(a) based upon the teachings of Squilla, Aihara, and Steinberg (US 6,006,039, Dec. 21, 1999).

ANALYSIS

Appellants assert the Examiner is incorrect in finding Squilla teaches all the features of Appellants claimed invention, particularly “one or more ancillary data files being selected and downloaded through selection

decisions that are able to be made in all instances only by said system user, said selection decisions being made in all instances prior to said download of said ancillary data files” as claimed (App. Br. 17, 19). Further, Appellants contend, Squilla teaches a personality file is used by respective processors (76, 14) in an image server (70) and image spot (10) to choose content data (App. Br. 18). Thus, selection decisions in Squilla are not made in all instances only by a system user (App. Br. 17-18).

The Examiner finds Squilla does disclose these claimed limitations as Squilla discloses a user can view content information on a list indicative of content information and can save data if wanted. Thus, the Examiner asserts, data files are selected and downloaded in all instances by a system user. (Ans. 30) Further, the Examiner notes, the portion of Squilla relied upon by Appellants is a separate embodiment and not the embodiment cited to provide the teachings of claim 1 (Ans. 31; Squilla, col. 16, ll. 57-59). We do not agree with the Examiner.

Squilla does not teach “data files being selected and downloaded through selection decisions that are able to be made in *all instances only* by said *system user*” as claimed (emphasis added). As Appellants assert, the portion of Squilla relied upon by the Examiner refers to both embodiments (App. Br. 18). Thus, as Squilla does not teach all the limitations of Appellants’ claimed invention, it does not anticipate claims 1, 4-9, 11, 13-15, 17, 21, 24-29, 31, 33-35, 37, 47, 48, 50, and 52.

The Examiner rejected the remaining claims over Squilla in combination with various references which do not remedy the deficiencies of Squilla. Thus, we conclude claims 2-3, 10, 12, 16, 18-20, 22-23, 30, 32,

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36, 38-40, 43-46, 49, and 53- 58 are not obvious over the collective teachings of the cited references.

DECISION

The Examiner's decision rejecting claims 1-40, 43-50, and 52-58 is reversed.

REVERSED

Vsh